

ATTACHMENT C

Good Cause Request

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July 3, 2018

VIA HAND DELIVERY AND EMAIL

Brad Wagenknecht, Chair
Napa County Board of Supervisors
1195 Third Street, Suite 310
Napa, CA 94559

RE: Request for Determination under Napa County Code Section 2.88.090B

Dry Creek-Mount Veeder Project/Oakville Winery LLC
Use Permit P17-00343-UP and Variance P17-00345-VAR
Napa County Assessor's Parcel No. 027-310-039

Dear Chairperson Wagenknecht:

This letter requests that you, Chair of the Napa County Board of Supervisors (the "Board") make a determination that "good cause" exists to augment the administrative record of the Project and/or request de novo review of the Napa County Planning Commission's decision, on a 3-2 vote, to deny the Project at its sole public hearing on April 18, 2018.

As you know, Napa County Code (NCC) section 2.88.090 states that in hearing an appeal, the Board shall exercise its independent judgment in determining whether the decision appealed was correct. If the hearing before the approving authority was recorded electronically or by a certified court reporter and notice of that hearing had been given in the proper manner, the decision of the Board on appeal shall be based on a review of the documentary record, including a transcription of the hearing, and such additional evidence as may be presented which could not have been presented at the time the decision appealed was made. Furthermore:

- No other evidence shall be permitted to be presented except as provided in subsection (B) of this section. If the hearing held before the approving authority was not recorded electronically or by a certified court reporter, or if notice of the hearing was not required

to be given in the manner set forth in Section 18.136.040, the hearing on appeal shall be heard de novo;

- Upon a showing of good cause, the chair of the board may authorize a de novo review and/or the presentation of additional evidence which could not have been presented at the time of the decision appealed from. This decision by the chair may be overruled by a majority of the remaining board members;
- Following close of the hearing on appeal the board may affirm, reverse, or modify the decision being appealed, or may remand the matter to the approving authority for further consideration, additional findings, advisory report to the board within forty days of the remand, or other appropriate action consistent with the decision of the board.

(NCC § 2.88.090, subsections A, B and C, emphasis added.)

We hereby request the Board to consider presentation of supplemental material on appeal as follows:

1. Exhibit with a rendering of the existing proposed winery building as viewed from the perspective of the centerline of Mt. Veeder Road. The rendering uses a photograph of the forested hillside behind the building site as background. Although a similar rendering was provided as a visual aid during the April 18 Planning Commission hearing, its perspective was from a spot approximately 50 feet from the proposed building. The Applicant's architect was unable to make the necessary changes prior to the hearing due to a sudden health issue.¹
2. Same as above but showing vegetation screening of winery along road (Olive trees). Good cause exists for inclusion of this rendering, as the Olive trees had not been planted at the time of the Planning Commission hearing. For the reason stated above, Applicant's architect was unavailable to add "virtual" Olive trees to the rendering. At the hearing, Commissioner Basayne stated that more information regarding the type of screening proposed would be helpful.
3. Same as above but deleting covered crush pad fronting Mt. Veeder Road and/or winemaker cottage, and the persons (in business attire) and car (Mercedes) depicted in the rendering, with the proposed winery building remaining in the original

¹ The previous architect, Michael Rada, suffered a heart attack the week prior to the hearing and is recovering from bypass surgery. The Applicant's new architect, Wayne Holland, will be providing the renderings.

location. These changes were not recommended by staff, members of the Planning Commission or by neighbors, but may be of interest to Board members and “good cause” exists for having a rendering available in the interest of efficiency.

4. Exhibit showing winery building shifted approximately 50 feet northwest to former cottage location with no change in footprint. As above, this change was not recommended by staff, members of the Planning Commission or by neighbors, but may be of interest to Board members and “good cause” exists for having a rendering available in the interest of efficiency.
5. Exhibit showing different color scheme(s) for winery building. See above reasoning.
6. Exhibit moving County-required parking to less visible location within existing building envelope. Parking was a concern of two Commissioners (Gill and Basayne) at the hearing. Various ideas were floated to relocate the parking to the side of the winery building or place a visual barrier screening the parking area from view.
7. Post-fire topographic map showing areas on “lower flat” of less than 30% slopes. Good cause exists for including evidence of these areas as potentially plantable for vineyards as three Commissioners (Scott, Cottrell and Gallagher) appeared to be dismayed that the property’s vineyard potential was not thoroughly presented.² Commissioner Scott made several statements before and during the hearing that he believed the parcel was “undevelopable” and the Applicant should have conducted “due diligence” before proposing a project on a parcel that would require a variance.
8. Exhibit rendering showing visual impact of similar size and capacity winery moved outside of the 300-foot public road setback (onto the hillside), which may be of interest to Board members. “Good cause” exists for having a rendering available in the interest of efficiency and to support Applicant’s contention that it is a bad idea to cut down numerous trees to place a structure the middle of a forested hillside.
9. Additional grape source, business plan and operational information from Project consultant/real party in interest, winemaker Helen Keplinger. Commissioners Scott

² Commissioner Gallagher visited the site with the author on Saturday, April 14. Commissioners Cottrell and Scott visited the site on April 17 at 2:00 PM and 2:30 PM, respectively. Commissioner Basayne visited the site on April 17 at approximately 5:00 PM. Very little time existed prior to the hearing to assemble exhibits addressing their concerns.

and Gallagher raised concerns, both before and during the hearing, that the Project was too "speculative" to be approvable.

10. Additional witnesses Ms. Keplinger, Ridgie and Buttons Barton, 3181 Mt. Veeder Road, and Ben August, 5955 Mt. Veeder Road. The Bartons submitted a letter in support of the Project. Mr. August lives directly across Mt. Veeder Road from the Project, supports the Project, and recently planted a small vineyard on his property,³ which is of similar topography and vegetation type. He can speak to the comments of Mr. Scott that the Project parcel is unsuitable for development.

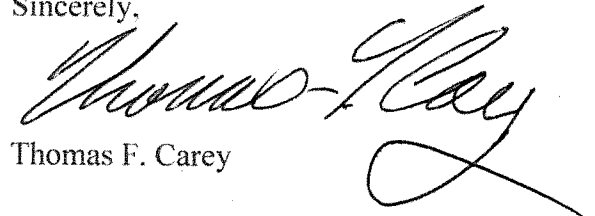
In conclusion, we believe that the above items fit within one of the following categories:

- Materials and information supplementing the existing record that are customarily accepted by Board at hearings on appeal, or
- Evidence that could not have been presented at the time of Planning Commission hearing; and/or
- Additional materials that reasonably would be of interest to the Board for which "good cause" exists in the form of administrative efficiency.

As such, we respectfully request your determination that items 1-10 above may be introduced at the August 14, 2018 hearing on appeal. A full list of evidentiary materials to be introduced at that hearing will be provided under the timeline established by County Counsel.

Please contact me if you have any questions.

Sincerely,



Thomas F. Carey

cc: Clerk of the Board
Laura Anderson, Deputy County Counsel (via email)
David Morrison, Director, PBES (via email)

³ Napa County Erosion Control Plan P16-00434-ECPA, approved February 17, 2017.